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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**  
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9 Kimberly Brennan, et al.,  
10 Plaintiffs,  
11 v.  
12 Johnny Hernandez, et al.,  
13 Defendants.

No. CV-24-01740-PHX-DJH

**ORDER**

15 This matter having recently come before this Court, the parties are advised of the  
16 following preliminary policies and procedures that will govern these proceedings, and are  
17 ordered as follows.

18 **Governing Rules**

19 Both counsel and *pro se* litigants must abide by the [Local Rules of Civil Procedure](#)  
20 (“LRCiv” or “Local Rules”), Rules of Practice of the U.S. District Court for the District  
21 of Arizona, and the [Federal Rules of Civil Procedure](#).

22 **Service of Process**

23 Rule 4 of the Federal Rules of Civil Procedure requires that service of the  
24 summons and complaint must be accomplished on each defendant within ninety (90) days  
25 of the date of the filing of a complaint. Proof of service must be promptly filed with the  
26 Clerk of Court pursuant to Rule 4(l).

27 If, for good reason, Plaintiff(s) cannot serve the summons and complaint on  
28 Defendant(s) within ninety (90) days, a request for an extension of time in which to serve

1 the summons and complaint may be filed with the Clerk of Court prior to the expiration  
2 of the 90-day period. Any request must set forth the reason why service has not been  
3 accomplished and request a specific short period of time in which to accomplish such  
4 service.

5 As will be repeated throughout the duration of this case, the Court has a strict  
6 policy not to extend the dispositive motion deadline beyond the two-year anniversary of  
7 the commencement of a case. Therefore, Plaintiff(s) are encouraged to expeditiously  
8 complete service and to avoid unnecessary delay so that the pretrial period may be  
9 preserved for discovery and motion practice.

10 Notice is hereby given that any Defendant that has not been timely served will be  
11 dismissed without prejudice from this action without further order pursuant to Rule 4(m)  
12 of the Federal Rules of Civil Procedure.

13 **Case Management Conference**

14 The Court will schedule a case management conference in accordance with Rule  
15 16 of the Federal Rules of Civil Procedure once Defendant(s) have been served or have  
16 appeared in the action. As will be directed in the order setting the conference, the parties  
17 will be required to engage in a Rule 26(f) meeting and submit a Joint Rule 26(f) Case  
18 Management Report and a Joint Proposed Rule 16 Case Management Order. Outstanding  
19 motions or requests to continue the Case Management Conference will not excuse the  
20 requirement to hold a Rule 26(f) meeting or submit the joint filings.

21 The Court will issue a Case Management Scheduling Order following the  
22 scheduled conference. The Order will reflect the parties' input and the Court's considered  
23 assessment of the time necessary to complete discovery and all pretrial submissions and  
24 will set forth additional policies and procedures that will apply in this case.

25 **Rule 12 Motions**

26 Any motion made pursuant to Federal Rule of Civil Procedure 12 is discouraged if  
27 the challenged defect in the pleading can be cured by filing an amended pleading. In  
28 accordance with LRCiv 12.1(c), the Court therefore requires: (1) *conferral* – the movant

1 must confer with the opposing party prior to filing a motion to dismiss for failure to state  
2 a claim or counterclaim pursuant to Rule 12(b)(6), or a motion for judgment on the  
3 pleadings on a claim or counterclaim pursuant to Rule 12(c), to determine whether such  
4 motion can be avoided; and (2) *certification* – the movant must *attach* a certificate of  
5 conferral, certifying that it notified the opposing party of the issues asserted in its motion  
6 (in person, by telephone, or in writing), and that the parties conferred but were unable to  
7 agree that the pleading was curable in any part by a permissible amendment offered by  
8 the pleading party. Any motion lacking an attached compliant certificate may be  
9 summarily stricken by the Court.

10 **Amendments to the Pleadings**

11 Parties shall endeavor not to oppose motions to amend that are filed prior to any  
12 Rule 16 Case Management Conference or the deadline set forth by any Rule 16 Case  
13 Management Order. Any motion for leave to amend or notice of amendment must be  
14 filed in accordance with Rule 15.1 of the Local Rules of Civil Procedure. Any motion or  
15 notice that does not comply with the local and federal rules may be stricken by the Court.

16 **Protective Orders**

17 Although the parties may agree to designate materials or information as  
18 confidential, that does not mean that the Court will order that the filings containing such  
19 information be placed under seal. Any party wishing to seal a specific record or  
20 document and shield it from public view must prove why the interest in secrecy  
21 outweighs the presumption of public access to judicial records and documents.

22 **Corporate Statement**

23 If applicable, full compliance with Rule 7.1 of the Federal Rules of Civil  
24 Procedure is required. A Corporate Disclosure Statement form is available on the [District](#)  
25 [Court's Website](#).

26 **Filings**

27 All electronic filings must be filed in a PDF text searchable format in accordance  
28 with LRCiv 7.1(c). A paper copy of any document filed exceeding ten (10) pages in

1 length must be submitted to chambers. Documents which are too large for stapling must  
2 be submitted in a three-ring binder. Electronic copies of proposed orders must be  
3 emailed in Microsoft Word® format to [hometewa\\_chambers@azd.uscourts.gov](mailto:hometewa_chambers@azd.uscourts.gov).

4 **Communications with the Court**

5 All communications with the Court regarding any case must be made on the  
6 record. Telephone calls regarding routine administrative matters in civil cases may be  
7 directed to chambers at (602) 322-7600. No member of chambers staff will provide the  
8 parties with legal advice concerning any matter.

9 Any inquiry regarding the status of any motion or other matter that has been under  
10 advisement for more than one hundred and eighty (180) days must be filed in the manner  
11 set forth in LRCiv 7.2(n).

12 **Noncompliance**

13 The parties are specifically admonished that failure to prosecute, to comply with  
14 court orders, or to comply with the local and federal rules may result in dismissal of all or  
15 part of this case, default, imposition of sanctions, or summary disposition of matters  
16 pending before the Court. *See Fed. R. Civ. P. 41; LRCiv 7.2* (“[i]f a motion does not  
17 conform in all substantial respects with the requirements of [the Local Rules], or if the  
18 opposing party does not serve and file the required answering memoranda... such  
19 noncompliance may be deemed a consent to the denial or granting of the motion and the  
20 Court may dispose of the motion summarily”).

21 **IT IS THEREFORE ORDERED:**

22 1. Plaintiff(s) must file proof of timely service of the summons and complaint  
23 or of waiver of service with the Clerk of Court no later than **August 8, 2024**;

24 2. Plaintiff(s) must promptly serve a copy of this Order on Defendants and file  
25 notice of service with the Clerk of Court; and

26 3. Unless the Court orders otherwise, on **August 9, 2024**, the Clerk of Court,  
27 without further notice, shall **terminate** any Defendant in this action that has not been  
28 served pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

1           **IT IS FURTHER ORDERED** directing any party appearing *pro se* to become  
2 familiar with the Local Rules and the Federal Rules of Civil Procedure. Such parties are  
3 advised of the free Self-Service Clinic at the courthouse. For information on the free  
4 clinic and the Handbook for Self-Represented Litigants, visit the Court's internet site at:  
5 [www.azd.uscourts.gov](http://www.azd.uscourts.gov). Proceed to the box entitled *Information for Those Proceeding*  
6 *Without an Attorney* and then the link entitled *Federal Court Self-Service Clinic-Phoenix*.

7           Dated this 5th day of August, 2024.

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11           Honorable Diane J. Humentewa  
12           United States District Judge

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